

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL IRVING,

Defendant-Appellant.

UNPUBLISHED

December 15, 2000

No. 218203

Wayne Circuit Court

LC No. 98-00649

Before: Bandstra, C.J., and Wilder and Collins, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of receiving and concealing stolen property with a value exceeding \$100, MCL 750.535; MSA 28.803. The trial court sentenced defendant to one year of probation. Defendant appeals as of right. We affirm.

Defendant first argues that the trial court's failure to make certain findings on the record invalidated his waiver of trial by jury. We disagree.

A trial court's determination that a defendant validly waived his right to a jury trial is reviewed for clear error. *People v Leonard*, 224 Mich App 569; 569 NW2d 663 (1997). A criminal defendant has a statutory right to waive a trial by jury and elect a bench trial. MCL 763.3; MSA 28.856, *People v Kirby*, 440 Mich 485, 492; 487 NW2d 404 (1992). A defendant's waiver of his constitutional right to a trial by jury must be voluntary, *People v Godbold*, 230 Mich App 508, 512; 585 NW2d 13 (1998), and shall be in writing signed by the defendant, filed in the case, and made a part of the record. MCL 763.3; MSA 28.856.

The procedure required to effect a successful waiver of jury trial is set forth in MCR 6.402(B), which provides:

Before accepting a waiver, the court must advise the defendant in open court of the constitutional right to trial by jury. The court must also ascertain, by addressing the defendant personally, that the defendant understands the right and that the defendant voluntarily chooses to give up that right and to be tried by the court. A verbatim record must be made of the waiver proceeding.

In this case, defense counsel expressed uncertainty as to whether defendant wanted to waive trial by jury and he requested a determination from the trial court.¹ The trial court swore in defendant, informed him of his constitutional right to a jury trial, and asked whether he wanted a waiver trial or a jury trial. Defendant unequivocally responded that he understood his rights and desired a waiver trial. The trial court further inquired of defendant whether his decision was made voluntarily and after consultation with defense counsel, to which defendant responded affirmatively. A completed waiver form as prescribed by MCL 763.3; MSA 28.856 was signed and placed in the record. These actions fully complied with the requirements of MCR 6.402. We therefore reject defendant's argument that his waiver of a jury trial was invalid.

Defendant also argues that there was insufficient evidence to sustain his conviction because the prosecutor did not establish that defendant had the requisite knowledge that the truck he possessed was stolen. We disagree.

In reviewing the sufficiency of the evidence, this Court examines the record de novo and considers the evidence presented in the light most favorable to the prosecution to determine whether a rational trier of fact could find that the essential elements of the crime charged were proven beyond a reasonable doubt. *People v Mayhew*, 236 Mich App 112, 124; 600 NW2d 370 (1999). The prosecutor needs only to introduce sufficient evidence, inclusive of circumstantial evidence and reasonable inferences, to convince a reasonable jury that defendant is guilty beyond a reasonable doubt. *People v Nimeth*, 236 Mich App 616, 622; 601 NW2d 393 (1999). Circumstantial evidence and all reasonable inferences that arise from the evidence can constitute satisfactory proof of the elements of the crime. *People v Carines*, 460 Mich 750, 757; 597 NW2d 130 (1999).

To sustain a conviction of receiving and concealing stolen property with a value exceeding \$100, the prosecutor must prove that (1) the property was stolen, (2) it had a fair market value in excess of \$100, (3) the defendant bought, received, possessed, or concealed property with the knowledge that it was stolen, and (4) the property was identified as being previously stolen. *People v Gow*, 203 Mich App 94, 96; 512 NW2d 34 (1993). Only the third element, defendant's knowledge, is at issue in this appeal.

Because of the difficulty of proving an actor's state of mind, minimal circumstantial evidence is sufficient. *People v Bowers*, 136 Mich App 284, 297; 356 NW2d 618 (1984). Guilty knowledge is interpreted as not only actual knowledge but constructive knowledge that arises from notice of facts and circumstances from which guilty knowledge can be inferred. *People v Tantenella*, 212 Mich 614, 621; 180 NW 474 (1920). Here, defendant was arrested by Detroit police while in control of a truck with a dismantled steering column with a screwdriver stuck in the dashboard. There was evidence that defendant could not produce the registration for the truck, that the license plates on the truck were from a different vehicle, and that the vehicle had been reported stolen. Viewing this evidence in a light most favorable to the prosecutor, a rational finder of fact could find that defendant had actual and constructive knowledge that the truck was

¹ According to defense counsel, defendant declined to sign the waiver form already prepared for him when the case was scheduled to be heard by another judge.

stolen. See *People v Scott*, 154 Mich App 615, 616-617; 397 NW2d 852 (1986) (prosecution presented sufficient evidence to infer constructive knowledge where the defendant was found with a vehicle for which he could not produce the registration, the ignition was tampered with, and the license plates were for a different vehicle); *People v Clark*, 154 Mich App 772, 775; 397 NW2d 864 (1986) (a broken window and smashed steering column were sufficient to demonstrate the defendant's guilty knowledge). On this record, the prosecution presented sufficient evidence to prove the elements of receiving stolen property beyond a reasonable doubt.

Affirmed.

/s/ Richard A. Bandstra

/s/ Kurtis T. Wilder

/s/ Jeffrey G. Collins